IN THE HIGH COURT OF BOMBAY AT GOA

APPLN. FOR APPOINTMENT OF ARBITRATOR NO. 11 OF 2006

POWER GUARD'S ELECTRICAL ENGINEERING THROUGH IT'S PROPRIETOR SHRI JAYESH PATEL ....Applicant

Versus

THE CHIEF GENERAL MANAGER TELECOM AND ANR., ...Respondents

Mr. S. D. Padiyar, Advocate for the applicant.

Mr. V. P. Thali, Advocate for the respondents.

Coram:- S.K. SHAH, J.

Date:- 23rd February, 2007

P.C.

Heard Counsel on both sides. There is an arbitration clause which is reproduced in para (3) of the petition. This clause was invoked by the applicant. The Counsel for the respondents submits that the respondents have appointed, by order dated 29.1.2007, Mr. V. V.Jambhali, as an Arbitrator. But the said appointment is subsequent to the filing of this application. Since the respondents failed to appoint the Arbitrator as per the arbitration clause, it is not binding on this Court to appoint the arbitrator named in that clause, as held by this Court in the case of B.T. Patil & Sons Belgaum (Construction) Pvt. Ltd., vs. Konkan Railway Corporation Ltd., & Anr., reported in 1998 LJSOFT 389. As such, the appointment of Mr. V. V. Jambhali, as arbitrator is not tenable as the matter was pending before this Court. The said appointment is, hereby, cancelled.

2. The arbitration work concerns the dispute with regard to the work of up-gradation of external plant including sub-office and to make

area poleless using five pair cables and erection of five pair DPs and its associated work in Panjim Central area. The dispute is with regard to certain bills preferred by the applicant. It is, therefore, apparent that the arbitrator who is to be appointed must have technical knowledge with regard to laying of cables.

3. The petitioners have suggested three names, viz. (1) Mr. P.P. Borkar, Retired Chief Engineer, (PWD, Goa; (2) Mr. V. Janardhanan, Retired Superintending Engineer, (PWD, Goa); and (3)Mr. Deo Ramchandra G. Retired Chief Engineer (PWD, Goa). As such, I hereby appoint Shri P.P. Borkar, Retired Chief Engineer, (PWD, Goa), Vodlo Bhat Taleigao, Panaji, Goa as Arbitrator for resolving the disputes between the applicant and the respondents. He shall go into the disputes and differences between the applicant and the respondents concerning the said work. The application stands disposed of.

S.K. SHAH, J.

ssm.